



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Aydin Corporation--Request for Reconsideration

File: B-227817.2

Date: February 12, 1988

DIGEST

Request for reconsideration is denied where there is no showing that prior decision may have been based on factual or legal errors.

DECISION

Aydin Corporation requests reconsideration of our decision in Aydin Corp., B-227817, Sept. 28, 1987, 87-2 CPD ¶ 306, wherein we denied Aydin's protest of the Department of the Air Force's award of a contract to Unisys Corporation under request for proposals (RFP) No. F19628-86-R-0065. The solicitation required the successful contractor to generate production documentation for the AN/TRC-170 Digital Troposcatter Radio by performing reverse engineering using government-furnished radios. We deny the request for reconsideration.

The solicitation required offerors to demonstrate their approach to reverse engineering by actually reverse engineering a previously supplied component of the radio (a digital demodulator circuit card assembly (CCA)) and discussing in detail the documentation package they developed for its manufacture and testing. The Air Force ultimately found that Aydin's proposal was inferior to Unisys' because Aydin had failed to demonstrate the functional understanding of hardware necessary for reverse engineering. Aydin argued in its protest that the agency improperly had emphasized this aspect of the evaluation over its prior experience, and had failed to conduct meaningful discussions.

We denied the protest, finding that the record showed Aydin had been unable to discuss certain functions of the component at the scheduled review (even when provided with an additional opportunity at Aydin's request), and that Aydin had never responded to a request to express, in writing, the mathematical equations for certain functions of the CCA. The agency reported that it advised Aydin during

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the review that its presentations had failed to demonstrate a functional understanding of the CCA, and a subsequent deficiency notice sent to Aydin similarly stated that its proposed approach to reverse engineering, and the demonstration of that approach on the CCA during the review, did not reflect the required functional understanding. As Aydin did not address the operation of the component during subsequent negotiations, we found the agency reasonably concluded that Aydin had not demonstrated the required functional understanding of the technology, and that the agency had not given improper emphasis to this aspect of the evaluation.

In its request for reconsideration, Aydin alleges that Air Force representatives at the review in fact only requested it to respond orally to the written problem regarding the transfer functions of the CCA and that, in any case, the problem was "literally unanswerable" at the review. Moreover, it maintains that nothing stated at the review could reasonably have led Aydin to believe that its approach to demonstrating its ability to reverse engineer the hardware was inadequate. Although we find Aydin's reconsideration request to be based largely on its disagreement with our conclusions on the prior record, we discuss Aydin's arguments, briefly, below.

First, although the agency's written request that Aydin express the mathematical equations for the transfer functions of the CCA did not expressly request a written response, in view of the mathematical calculations called for we think the request reasonably should have been interpreted as asking for a written response. We note that Unisys responded to a similar request in writing, to the satisfaction of the agency.

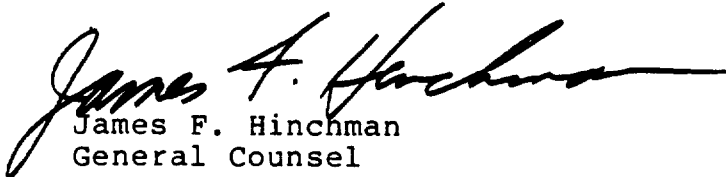
In any case, we still find that Aydin was on sufficient notice, during and after the review, that its demonstration of a functional understanding of the component was inadequate. Aydin's request for an additional opportunity on the second day of the review to address the digital signal processing functions of the CCA, and its contention that the agency's written request (for the mathematical equations) was "literally unanswerable," indicate that Aydin in fact was on notice, at the review, that it had not satisfied the request, and that its demonstration had failed to satisfy the agency. As we pointed out in our decision, this conclusion is confirmed by Aydin's response to the subsequent deficiency notice that "our preparation was inadequate It was clear at the conclusion of the [review] that [the Air Force's] representatives felt that a less than adequate demonstration had been made." Similarly, Aydin stated in its June 3, 1987 submission to our Office

that "[d]uring the [review], the Air Force team expressed disappointment because Aydin did not interpret the . . . RFP language to include demonstrating the complete operation of the CCA in a laboratory test environment."

Although Aydin continues to maintain that the discussions were inadequate because they did not specifically mention the mathematical expression of the transfer functions, we specifically concluded in the prior decision, based on the prior record, that while the Air Force could have been more specific in its deficiency notice, the notice imparted sufficient information to Aydin, in the context of this procurement, to afford it a fair and reasonable opportunity to identify and correct deficiencies in its proposal. We find no basis for changing this conclusion.

Aydin contends that the 3-page limit the Air Force placed on responses to the deficiency notice precluded it from remedying its failure to express mathematically the transfer functions of the CCA, but there was no evidence in the record supporting this argument. We note in this regard that Unisys' handwritten response to the agency's request amounted to only 38 short lines on 4 pages and could have been condensed into approximately one typed page. In any case, Aydin does not explain why Aydin did not respond further in its subsequent best and final offer.

Since Aydin has not shown that our prior decision may have resulted from factual or legal errors, its request for reconsideration is denied.


James F. Hinchman
General Counsel